IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 2172 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 08/12/2004 in WP NO : 22610 OF 2004 on the file of the High Court.)

Between:

Syed Ali Quadri, s/o Late Syed Hussain Quadri,
R/o 20-2-521, Hussainialam, Hyderabad.

..... APPELLANT

AND

1 The District Collector, Hyderabad, Hyderabad District.
2 The Revenue Divisional Officer, Hyderabad Division, Hyderabad.
3 The Municipal Corporation of Hyderabad, rep. by its Commissioner, Circle -IV,
Khairthabad, Hyderabad.
4 The Mandal Revenue Officer, Asifnagar Mandal, Hyderabad.

.....RESPONDENTS

Counsel for the Appellant : MR.NAZIR AHMED KHAN

Counsel for the Respondent Nos. 1, 2 and 4 : GP FOR REVENUE

Counsel for the respondent No.3: MR. RAMA RAO GANTA.

The Court made the following :

ORAL JUDGMENT:

(per Hon'ble The Chief Justice)

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1. The appellant is aggrieved by the dismissal of the writ petition. Appellant alleged that he is the absolute owner of the lands bearing Sy.Nos. 54 and 55 of Gudimalkapur village, corresponding to T.S.No.36, MCH No. 12-2-342, admeasuring Ac.2.12 guntas, situated at Syed Ali Guda, Hyderabad. Appellant's case is that since lands are in the custody of the Government, he had filed a petition in Case No.B/1464/2000 before 2nd respondent to conduct Inam enquiry and to confirm the grant in his favour in respect of the lands. The said proceedings were disposed of on 06.06.2002 with direction to the petitioner – appellant to get a succession certificate. Petitioner approached the Civil Court and filed suit for declaration, which is pending. Pending said

litigation, petitioner made request to respondents 1 and 2, in whose custody the land is, to ensure that the property is kept in tact free from all encroachments and since respondents failed to do the same, writ petition was filed. Learned single Judge dismissed the said writ petition on the ground that appellant as of today had no title over the lands and of course respondents are bound to take care of the said lands from any encroachments.

2. We are informed that earlier a writ petition was filed wherein direction was issued to the respondents to protect the property and since writ petition was disposed of, the order has come to an end.

3. There is no manner of doubt that respondents, who are having custody over the property, are bound to keep the property in tact and on petitioner producing succession certificate, they are bound to hand over the same to the petitioner free from all encroachments. Therefore, when the property is in the custody of the respondents 1 and 2, they have to ensure that encroachments, if any, are removed by taking all possible and effective steps and in case any person is carrying on any construction illegally without obtaining appropriate sanction from 3rd respondent, it is an obligation on the part of 3rd respondent to gear up its machinery and ensure that all constructions made without obtaining any permission are removed in accordance with law.

4. In the result, appeal is allowed. Impugned order is set aside. Writ petition is allowed with direction to respondents 1 and 2 to take all effective measures for protecting the property and keep it free from encroachments and respondent No.3 is directed to ensure that in case any construction has been made without obtaining prior sanction, the same shall be removed/demolished. No costs.

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DEVINDER GUPTA. C.J.,

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M. NARAYANA REDDY. J.,

Dated: 29.12.2004.

VRK.

Note:

Furnish cc in three days.

(BO)

To

1 The District Collector, Hyderabad, Hyderabad District.
2 The Revenue Divisional Officer, Hyderabad Division, Hyderabad.
3 The Commissioner, Municipal Corporation of Hyderabad, Circle -IV, Khairthabad, Hyderabad.
4 The Mandal Revenue Officer, Asifnagar Mandal, Hyderabad.

5. Two CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT).

6. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE M. NARAYANA REDDY.

W.A.NO. 2172 OF 2004.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 29.12.2004.

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